

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re:

Case No: 04-33225

Patti Ann Gertner  
The Stitching Stable  
Patti Gertner-Bernardy

Debtor(s).

**NOTICE OF HEARING AND MOTION FOR OBJECTING  
TO CLAIMED EXEMPTIONS**

TO: THE ABOVE NAMED DEBTOR(S), HER ATTORNEY EUGENE D. MAILANDER,  
AND OTHER PARTIES IN INTEREST SPECIFIED IN LOCAL RULE 9013-3

1. Charles W. Ries, the duly appointed and acting trustee in the above captioned matter, moves the Court for relief requested below and gives notice of hearing herewith.

2. The Court will hold a hearing on this motion on October 7, 2004 at 11:30 a.m., or as soon thereafter as counsel can be heard, before Honorable Dennis D. O'Brien, Court Room No: 228A, at the United States Courthouse, 316 North Robert Street, St. Paul, Minnesota.

3. Any response to this motion must be filed and delivered not later than 11:30 a.m. on October 4, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays and holidays), or filed and served by mail not later than September 29, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). If no response is timely filed, the Court may in its discretion enter an order without a hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion or this motion is authorized under 28 U.S.C. 157 and 1334, Bankruptcy Rule 5005, and Local Rule 1070-1. This proceeding is a core proceeding. This Chapter 7 case was commenced on May 28, 2004. Charles W. Ries was appointed as Chapter 7 trustee on July 21, 2004. The first meeting of creditors was scheduled for July 21, 2004. This case is now pending in this Court.

5. This motion arises under 11 U.S.C. 522, Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1, 9013-2, and 9013-5.

6. Debtor(s) have scheduled certain assets as exempt on Schedule C, including as follows:

Sole Checking Account First Independent Bank, Marshall, MN 56258	MSA § 550.37 (13), 571.922	\$412
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7. Movant objects to the above noted exemptions claimed in that schedule as follows, for the following reasons:

(a) The Debtor has claimed Sole Checking Account First Independent Bank Marshall, MN 56258 as exempt pursuant to MSA § 550.37 (13), 571.922. Objection is made because bank account balances are not exempt under these statutes.

WHEREFORE, the Trustee requests that the Court deny the following exemptions claimed by the Debtor(s):

1. Denying the claimed exemption of Sole Checking Account First Independent Bank Marshall, MN 56258.

Dated this 19<sup>th</sup> day of August, 2004.

/e/Charles W. Ries  
Charles W. Ries for  
MASCHKA RIEDY & RIES  
Attorneys for Trustee  
200 Union Square Business Center  
201 North Broad Street  
P. O. Box 7  
Mankato, MN 56002-0007  
Telephone (507) 625-6600  
Attorney License No: 12767X

VERIFICATION

STATE OF MINNESOTA

ss.

COUNTY OF BLUE EARTH

Charles W. Ries declares under penalty of perjury that he is the trustee in the above entitled action; that he has read the foregoing Notice of Hearing and Motion Objecting to Claimed Exemptions and knows the contents thereof; that the same is true to his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes them to be true.

/e/Charles W. Ries  
Charles W. Ries

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**DECLARATION RE: SERVICE BY MAIL**

The undersigned, being an employee of Maschka, Riedy & Ries, 200 Union Square Business Center, 201 North Broad Street, Mankato, Minnesota, declares under penalty of perjury that on the 19th day of August, 2004, she served the Notice of Hearing and Motion Objecting to Claimed Exemptions by first class mail postage prepaid to each entity named below at the address stated below for each entity:

Patti Ann Gertner  
2348 US Hwy 59  
Marshall, MN 56258

Eugene D Mailander  
Malone & Mailander  
PO Box 256  
Slayton, MN 56172-0256

United States Trustee  
1015 U S Courthouse  
300 S 4<sup>th</sup> St  
Minneapolis MN 55415

/e/Janet Anderson\_\_\_\_\_

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**ORDER**

At St. Paul, Minnesota this \_\_\_\_ day of \_\_\_\_\_, 2004.

The above captioned matter came before the Court on the on objection of the Chapter 7 Trustee to exemptions. Appearances were as noted upon the record.

Based upon the files, records, and proceedings herein,

IT IS HEREBY ORDERED,

That the Trustee's objection is sustained and

1. The claimed exemption of Sole Checking Account First Independent Bank Marshall, MN 56258 is denied.

BY THE COURT:

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Honorable Dennis D. O'Brien  
United States Bankruptcy Judge